

3 FAM 6180

COMPUTATION OF BENEFITS UNDER FSRDS, FSRDS OFFSET AND FSPS

(CT:PER-684; 09-27-2012)
(Office of Origin: HR/RET)

3 FAM 6181 HIGH-THREE AVERAGE SALARY

(CT:PER-684; 09-27-2012)
(State Only)

An annuity under the Foreign Service Retirement and Disability System (FSRDS), FSRDS Offset or the Foreign Service Pension System (FSPS) must be computed as a percentage of the participant's high-three average salary, regardless of whether such salary period occurs during FSRDS, FSRDS Offset or FSPS service. Annuity benefits in cases of an FSPS annuity with an FSRDS component are based on the same high-three average salary.

3 FAM 6181.1 Physicians Comparability Allowance (PCA)

(CT:PER-684; 09-27-2012)
(State Only)

- a. Physicians Comparability Allowance (PCA) means the same as provided in 5 U.S.C. 5948 and 3 FAM 3294.
- b. The percentage of the PCA that will be treated as basic pay for purposes of an annuity computation under the Foreign Service Retirement and Disability System (FSRDS), FSRDS Offset or the Foreign Service Pension System (FSPS) based on service of a participant with 15 years of service as a U.S. Government physician is as follows:
 - (1) Employees retiring on or after 12/28/02, with at least 2 years of service as a government physician on and after 12/28/00: 25 percent;
 - (2) Employees retiring on or after 12/28/04, with at least 4 years of service as a government physician on and after 12/28/00: 50 percent;
 - (3) Employees retiring on or after 12/28/06, with at least 6 years of service as a government physician on and after 12/28/00: 75 percent; and
 - (4) Employees retiring on or after 12/28/08, with at least 8 years of service as a government physician on and after 12/28/00: 100 percent.

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

- c. The PCA will be considered part of basic pay for purposes of the salary at retirement, under Section 824 of the Foreign Service Act, and lump-sum payments of annual leave to the extent already described. The PCA will not be considered part of basic pay for purposes of Federal Employees Group Life Insurance under any circumstances.

3 FAM 6181.2 Virtual Locality Pay

(CT:PER-684; 09-27-2012)
(State Only)

Virtual locality pay means effective December 29, 2002, participants in Foreign Service Retirement and Disability System (FSRDS), FSRDS Offset, and the Foreign Service Pension System (FSPS) who are assigned abroad will be credited the Washington, DC basic pay rate, rather than the overseas basic pay rate for the purpose of retirement annuity calculation.

3 FAM 6181.3 Exception to "Highest 3 Consecutive Years" Provision

(CT:PER-684; 09-27-2012)
(State Only)

- a. The Foreign Service Retirement and Disability System (FSRDS) annuity of any participant whose continuity of service in a position to which appointed by the President (whether or not confirmed by the Senate) is interrupted by appointment or assignment to any other position in the executive branch of comparable importance must be computed on the basis of the highest 3 years of service (not necessarily consecutive).
- b. When a participant serving in a position to which appointed by the President (whether or not confirmed by the Senate) is appointed or assigned to a position other than that of chief of mission, determinations must be made as to:
 - (1) Whether participant's service was "interrupted"; and
 - (2) Whether the position to which appointed or assigned is comparable in importance to a position of chief of mission.
- c. An interruption in the continuity of a participant's service as a chief of mission or in another position to which appointed by the President normally is deemed to occur when:
 - (1) It is determined that there are reasonable grounds for presuming that the participant would have continued to serve in the original position had the participant not been appointed or assigned to the new position; and
 - (2) The participant is appointed or assigned to the new position without having reverted to a permanent Foreign Service class following the termination of the participant's services in the original position. The determination

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

whether the appointment or assignment constitutes an interruption of service must be made by the Under Secretary for Management.

- d. If the position to which the participant is appointed or assigned is not already on the list of comparable positions, the Director General of the Foreign Service may submit to the Under Secretary for Management for approval a recommendation that the position either is or is not comparable in importance to that of chief of mission.
- e. In order for a participant to have the annuity computed on the basis of the provisions of this section, the position to which appointed or assigned must have been designated as comparable in importance before or at the time of participant's appointment or assignment to the position or during the period participant was in the position.

3 FAM 6182 ANNUITY BENEFITS UNDER FSRDS/FSRDS OFFSET

(CT:PER-684; 09-27-2012)
(State Only)

- a. Except as provided in paragraph b of this section, the basic annuity of a participant in the Foreign Service Retirement and Disability System (FSRDS) or FSRDS Offset is 2.0 percent of high-three average salary per year of creditable service (not exceeding 35 years of service), plus credit for unused sick leave (unless a deferred annuity).
- b. Paragraph a of this section does **not** apply:
 - (1) To a FSRDS disability annuity under Section 808 of the Act;
 - (2) To an annuity of a special agent or former special agent, computed under Public Law 105-382, or an annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, which is computed, if eligible, in accordance with 5 U.S.C. 8339(d), as explained in 22 U.S.C. 4045; or
 - (3) If a participant under FSRDS or FSRDS Offset has more than 35 years of service (excluding sick leave), the FSRDS/FSRDS Offset retirement deductions withheld after 35 years of service, plus interest, are refundable under 22 U.S.C. 4055(h).

3 FAM 6183 ANNUITY BENEFITS UNDER THE FOREIGN SERVICE PENSION SYSTEM (FSPS)

(CT:PER-684; 09-27-2012)
(State Only)

Foreign Service Pension System (FSPS) benefits are calculated as described in 3 FAM 6183, except FSPS disability annuity under Section 808 of the Act that is computed in accordance with 3 FAM 6300.

3 FAM 6183.1 When There Is a FSRDS Component to a FSPS Annuity

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(State Only)

A Foreign Service Pension System (FSPS) annuity must be computed with a Foreign Service Retirement and Disability System (FSRDS) component if the participant was not automatically covered under FSPS (see 3 FAM 6124) and the participant voluntarily elects FSPS coverage and meets the 5-year tests for computing an annuity under FSRDS rules described in 3 FAM 6126.5. If a FSPS annuity has a FSRDS component, the FSRDS component of that FSRDS annuity must be computed in accordance with 3 FAM 6182.

3 FAM 6183.2 FSPS Retirement under the Foreign Service Eligibility Provisions

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(State Only)

A Foreign Service Pension System (FSPS) annuity without a Foreign Service Retirement and Disability System (FSRDS) component, and the FSPS component to an FSPS annuity with an FSRDS component must be computed on the basis of 1.7 percent of high-three average salary per year for each of the first 20 years of FSPS service and 1.0 percent of high-three average salary for each year of service in excess of 20 years, except as explained in 3 FAM 6183.4. See 3 FAM 6141.2, subparagraphs (1) and (2).

3 FAM 6183.3 Cap on FSRDS Component to FSPS Annuity

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(State Only)

Unlike the 35-year cap on Foreign Service Retirement and Disability System (FSRDS) service, there must be no cap on a Foreign Service Pension System (FSPS) annuity without a Foreign Service Retirement and Disability System (FSRDS) component, or the FSPS component to an FSPS annuity with an FSRDS component. If an FSPS participant has a FSRDS component to the annuity and more than 35 years of service credit under FSRDS, the refund of retirement

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

deductions described herein will stop when the FSPS component to that annuity begins. For example, assume a FSPS participant has 37 years of FSRDS credit, plus 1 year of creditable sick leave (see 3 FAM 6171.8) and 5 years of FSPS credit. The regular FSRDS component to that annuity would be 72 percent of high-three basic pay, and the FSPS component to that annuity would be 8.5 percent of high-three basic pay for a combined annuity of 80.5 percent of high- three basic pay.

3 FAM 6183.4 FSPS Retirement under the FERS Eligibility Provisions

(CT:PER-684; 09-27-2012)
(State Only)

The Foreign Service Pension System (FSPS) annuity of a FSPS participant without a Foreign Service Retirement and Disability System (FSRDS) component and the FSPS component to a FSPS annuity with a FSRDS component who retired under the following provisions (see 3 FAM 6141.2, subparagraph (3)), must be computed as explained herein, instead of the formula described in 3 FAM 6183.2:

- (1) **Retirement at age 62 with 5 years of service:** 1.0 percent of high-three basic pay for each year of FSPS service for an FSPS participant retired under 3 FAM 6174 (unless the FSPS participant is separated and meets the eligibility requirements for an annuity described in 22 U.S.C. 4071d for a separation under Section 607, 608, 611, 811, 812, or 813 of the Act). For example, a FSPS participant with 5 years in the Foreign Service, who is mandatorily separated at the end of the month in which he or she reaches age 65, would receive an annuity based on the 1.7 percent factor described above;
- (2) **Retirement at age 55-57 with 10 years of service:** 1.0 percent of high- three basic pay for each year of FSPS service for an FSPS participant retired under 3 FAM 6173, in which case the annuity (including the FSRDS component, if any, to that annuity) will be reduced by 5/12 of 1.0 percent for each full month under 62 on the commencing date of the annuity, unless a former FSPS participant has 20 years or more of FSRDS/FSPS service as of the commencing date of the annuity, in which case the formula described in 3 FAM 6183.2 must apply (without age reduction). Likewise, a FSPS participant who is separated and meets the eligibility requirements for an annuity described in 22 U.S.C. 4071d for a separation under Section 607, 608, 611, 811, 812, or 813 of the FSA would receive the 1.7 percent factor. For example, an FSPS participant with 5 years in the Foreign Service (10 years total service), who is mandatorily separated for performance and eligible for an immediate annuity under 3 FAM 6173 would receive an annuity based on the 1.7 percent factor described above. Such an annuitant would also be eligible for the annuity supplement and COLA's before age 62; and

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

- (3) **Involuntary retirement with 25 years of service:** 1.0 percent of high-three basic pay for each year of FSPS service for an FSPS participant retired under 3 FAM 6141.2 (unless the FSPS participant is separated and meets the eligibility requirements for an annuity described in 22 U.S.C. 4071d for a separation under Section 607, 608, 611, 811, 812, or 813 of the FSA.).

3 FAM 6184 FSRDS OFFSET REDUCTION

(CT:PER-684; 09-27-2012)
(State Only)

- a. **To whom it does apply:** The retirement, disability, or survivor annuity based on the service of an Foreign Service Retirement and Disability System (FSRDS) Offset participant is reduced, as though 5 U.S.C. 8349 were applicable, when the annuitant would be eligible for old age, disability, or survivor benefits under title II of the Social Security Act based on the service of the FSRDS Offset participant. This reduction, explained below, applies when the FSRDS Offset participant becomes eligible for Social Security benefits (usually at 62).
- b. The amount of the FSRDS offset reduction is the lesser of:
- (1) The amount of the Social Security benefit attributable to the employee's service after December 31, 1983, covered under the Civil Service Retirement System (CSRS) Offset/FSRDS Offset provisions; or
 - (2) The amount obtained by multiplying the following fraction by the Social Security benefit to which the individual is entitled (or would be entitled upon proper application): Total years of Offset service/40 (partial years of Offset service are rounded to the nearest whole number, with one half being rounded to the next higher number).

3 FAM 6185 ALTERNATIVE FORM OF ANNUITY

(CT:PER-684; 09-27-2012)
(State Only)

- a. **Definition:** The alternative form of annuity is an option in which an eligible employee annuitant receives a lump-sum credit of his or her retirement deductions (excluding interest), in addition to the employee's annuity. The employee annuity (but not the survivor annuity) is reduced by an actuarial value of the lump-sum credit, based on Present Value Factors issued by the Office of Personnel Management (OPM).
- b. **Eligibility:** A participant in the Foreign Service Retirement and Disability System (FSRDS), FSRDS Offset, or Foreign Service Pension System (FSPS), whose annuity begins on or after October 1, 1994, who meets the following conditions is eligible to elect the alternative form of annuity (AFA):

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

- (1) The participant has **not** retired on disability under Section 808 of the Foreign Service Act;
- (2) The participant has a life-threatening affliction or other critical medical condition (as determined by the Director of the Office of Medical Services, Department of State);
- (3) A married participant has the consent of his or her spouse (at retirement) to make an election of the AFA; and
- (4) The participant does **not** have a former spouse eligible for benefits under Section 814 or 820 of the Foreign Service Act, unless a waiver has been made under 22 U.S.C. 4046(b)(1)(C).

3 FAM 6186 FSPS ANNUITY SUPPLEMENT

(CT:PER-684; 09-27-2012)
(State Only)

- a. **Definition:** An annuity supplement is a benefit added to the annuity of certain Foreign Service Pension System (FSPS) annuitants (see herein) which represents the Social Security benefits an employee earned while performing civilian service credited under FSPS. See 5 U.S.C. 8421 and 5 CFR 842, Subpart E, for a description of the provisions for payment of the annuity supplement, which are applicable to certain FSPS annuitants as though they retired under the law enforcement provisions of the Federal Employees Retirement System (FERS).
- b. **How the annuity supplement is computed:** The annuity supplement is computed under the terms described in 5 CFR 842.504, as though the FSPS service described therein were Federal Employee Retirement System (FERS) service. The annuity supplement is computed as an amount equal to the old-age insurance benefit under Title II of the Social Security Act (multiplied by a fraction) described in 5 CFR 842.504(a). As explained in 5 CFR 842.504 (b), the Social Security benefit is computed on the basis of the earnings for **full** calendar years (January 1 to December 31) of civilian service for which the participant is credited under FSPS.
- c. **Eligibility:** A participant in FSPS who is eligible for an immediate annuity under the Foreign Service provisions (see 22 U.S.C. 4071(d)(b)(1)) is entitled to an FSPS annuity supplement. An FSPS participant who retires under the FERS eligibility provisions (see 3 FAM 6183.4, subparagraph (2)) is **not** eligible for the annuity supplement unless the special conditions in 6183.4, subparagraph (2), apply. For example, an FSPS participant voluntarily retiring on a minimum retirement age (MRA) annuity at age 55 with 10 years of service is not eligible for the annuity supplement. The annuity supplement begins on the commencing date of the annuity and is payable automatically until age 55. The annuity supplement is conditionally payable, in whole or in part, between

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

the ages of 55 and 62 (see below for application of income test). The annuity supplement ends at the end of the month in which the FSPS employee annuitant reaches age 62.

- d. **Reduction in annuity supplement because of excess earnings:** The annuity supplement is reduced for excess earnings, as explained, in 5 CFR 842.505. This means that the annual annuity supplement is reduced by \$1.00 for every \$2.00 in post-retirement earned income (from any source--government or nongovernment, while actually employed (WAE), contract, etc.) of the employee annuitant, not counting pensions or investment income over the earnings limit (\$14,160 in 2010).

3 FAM 6187 DEATH BENEFITS UNDER FSRDS/FSPS

3 FAM 6187.1 Death in Service of a FSRDS Participant

(CT:PER-684; 09-27-2012)
(State Only)

If a Foreign Service Retirement and Disability System (FSRDS) participant dies in service with at least 18 months of civilian service retirement credit, and is survived by a spouse, to whom married for at least 9 months (or the cause of death was accidental), or by a former spouse qualifying for an annuity under Section 814(b) of the Foreign Service Act, the surviving spouse or former spouse, or will be entitled to an annuity computed under Section 809 of the Foreign Service Act. The maximum survivor annuity payable, in total, to spouse and former spouse cannot exceed 55 percent of the employee annuity payable, as if the employee were eligible for disability retirement benefits under Section 808 of the Foreign Service Act (FSA) at the time of death. Survivor annuity benefits commence, terminate, and resume in accordance with provisions of Sections 806 and 828 of the FSA.

3 FAM 6187.2 Death in Service of a FSPS Participant

(CT:PER-684; 09-27-2012)
(State Only)

- a. If a Foreign Service Pension System (FSPS) participant dies in service with at least 10 years of retirement credit, including 18 months of civilian service retirement credit, and is survived by a spouse, to whom married for at least 9 months (or the cause of death was accidental), or by a former spouse qualifying for an annuity under Section 861 or 862 of the Foreign Service Act, the surviving spouse or former spouse will be entitled to an annuity computed under Section 855 (b)(6) of the Foreign Service Act. The maximum survivor annuity payable, in total, to said spouse and former spouse cannot exceed 50

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

percent of the earned employee annuity payable, as if the employee were eligible for voluntary retirement benefits on the date of death. Survivor annuity benefits commence, terminate, and resume in accordance with the provisions of 5 U.S.C. 8441-8445 and Sections 861 and 862 of the FSA.

- b. If an FSPS participant dies in service, with at least 18 months of civilian service retirement credit and is survived by a spouse to whom married for at least 9 months (or the cause of death was accidental), or by a former spouse qualifying for survivor benefits under Section 861 or 862 of the Foreign Service Act, the surviving spouse or former spouse, will be entitled to a FSPS Basic Employee Death Benefit based on 50 percent of the final basic salary (or average pay, if higher, plus \$15,000 (adjusted for cost-of-living adjustments under 5 U.S.C. 8462(e).

3 FAM 6187.3 FSRDS Survivor Benefit

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(State Only)

- a. **Election at retirement:** At the time of retirement, a Foreign Service Retirement and Disability System (FSRDS) participant may elect a survivor annuity for a spouse or former spouse. The maximum survivor benefit, payable to any surviving spouse and/or former spouse, is 55 percent of the gross annuity benefit before reduction for survivor benefits (the base). An election of maximum survivor benefits for the spouse at retirement is automatic unless the FSRDS participant obtains the spouse's consent to an election of a lesser amount or to an election of no survivor benefits, or the spouse's whereabouts are unknown, in which case 22 CFR 19.11-4 applies. The reduction for the survivor benefit is 2.5 percent of the first \$3600 used as a base for the survivor benefit and 10 percent for any amount in excess of \$3600 used as a base for the survivor benefit. Subject to the restrictions above, and below, an FSRDS participant may elect, at retirement, any level of survivor benefits for a spouse or previous spouse. A former spouse or previous spouse may have intervening rights to a survivor annuity as explained in 22 CFR 19.
- b. **Changes in election at retirement:** During the first 30 days of retirement, an FSRDS participant may elect, increase, reduce or eliminate a survivor election described above, provided consent is obtained as explained. During the first 18 months of retirement, a married (at retirement) FSRDS annuitant who elected no survivor benefits at retirement, or who elected less than the maximum may increase the survivor benefit as explained in 22 U.S.C. 4046(n). The deposit due under 22 U.S.C. 4046(n) must be received, or authorized as a deduction from annuity to be completed by the end of the calendar year in which the authorization is made before the expiration of the 18-month period described above.
- c. **Marriage after retirement:** An FSRDS annuitant may elect a survivor annuity for a spouse acquired after retirement, provided a written election to do so is

UNCLASSIFIED (U)

received by the Department of State within 1 year of marriage, as explained and subject to the restrictions in 22 U.S.C. 4046(j) and 22 CFR 19. The reduction for the survivor benefit is effective the first of the month, beginning 1 year after marriage.

- d. **Election of a survivor benefit for a person other than a spouse:** At the time of retirement, an unmarried participant who does not have a former spouse eligible for benefits and who passes a physical examination conducted by the Office of Medical Services, Department of State, may elect a survivor annuity for another person called a designated beneficiary as explained in 22 U.S.C. 4046(f). This benefit is subject to a reduction of 10 percent, plus an additional 5 percent for each full 5 years of difference in age between the designated beneficiary and the FSRDS participant, up to a maximum reduction of 40 percent. The survivor annuity is 55 percent of the base annuity. Such an election may be converted to a regular survivor annuity election after retirement, if the FSRDS annuitant marries the designated beneficiary.
- e. **Death of an FSRDS annuitant:** If an FSRDS annuitant dies after retirement, a survivor annuity is payable to the spouse (married at least 9 months, or if the cause of death was accidental), previous spouse, or former spouse, or designated beneficiary, provided a valid election is made under paragraph d of this section, and/or benefits are payable under 22 CFR 19, and further provided said spouse, previous spouse, or former spouse has not remarried before age 55. The survivor annuity is increased by cost-of-living adjustments as explained in Section 826 of the Foreign Service Act.

3 FAM 6187.4 FSPS Survivor Benefit

(CT:PER-684; 09-27-2012)
(State Only)

- a. **Election at retirement:** At the time of retirement, a Foreign Service Pension System (FSPS) participant may elect a survivor annuity for a spouse or previous spouse. The maximum survivor benefit payable to any surviving spouse and or former spouse, is 50 percent of the gross annuity benefit before reduction for survivor benefits (the base). An election of maximum survivor benefits for the spouse at retirement is automatic unless the FSPS participant obtains the spouse's consent to an election of a lesser amount or to an election of no survivor benefits, or the spouse's whereabouts are unknown, in which case 22 CFR 19.11-4 is deemed to apply. The reduction for the survivor benefit is 10 percent of the base for the survivor benefit. Subject to the restrictions above, and below, an FSPS participant may only elect, at retirement, a survivor benefit for a spouse or previous spouse, based on the maximum survivor benefit, 50 percent of the base, for which the reduction is 10 percent or based on the minimum survivor benefit, 25 percent of the base, for which the reduction is 5 percent, or no survivor benefit, unless a survivor annuity is payable in a different amount as provided in Section 861 of the Foreign Service

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

Act. However, a former spouse or previous spouse may have intervening rights to a survivor annuity, as explained in Section 861 or 862 of the Foreign Service Act.

- b. **Changes in election at retirement:** During the first 30 days of retirement, an FSPS participant may elect, increase, reduce or eliminate a survivor election described above, provided consent is obtained as explained. During the first 18 months of retirement, a married (at retirement) FSPS annuitant who elected no survivor benefits at retirement, or who elected less than the maximum may increase the survivor benefit as explained in 5 U.S.C. 8416. The deposit due under 5 U.S.C. 8416 must be received, or authorized as a deduction from annuity to be completed by the end of the calendar year in which the authorization is made before the expiration of the 18-month period described above.
- c. **Marriage after retirement:** An FSPS annuitant may elect a survivor annuity for a spouse acquired after retirement, provided a written election to do so, is received by the Department of State within 2 years of marriage, as explained and subject to the restrictions in 5 U.S.C. 8416 and Sections 861 and 862 of the Foreign Service Act. The election and reduction is effective the first day of the second month after the election is received, but not less than 9 months after the date of remarriage. A deposit for the survivor election is also required as explained in 5 U.S.C. 8418, and it may be paid by actuarial reduction.
- d. **Election of a survivor benefit for a person other than a spouse:** At the time of retirement, an unmarried participant, who does not have a former spouse eligible for benefits, and who passes a physical examination conducted by the Office of Medical Services, Department of State, may elect a survivor annuity for another person called an Insurable Interest Designated Beneficiary as explained in 5 U.S.C. 8420. This benefit is subject to a reduction of 10 percent, plus an additional 5 percent for each full 5 years of difference in age between the Designated Beneficiary and the FSRDS participant, up to a maximum reduction of 40 percent. The survivor annuity is 50 percent of the base annuity. An election made under 5 U.S.C. 8420 may be converted to a regular survivor annuity election after retirement, if the FSPS annuitant marries the person with an insurable interest.
- e. **Death of an FSPS annuitant:** If an FSPS annuitant dies after retirement, a survivor annuity is payable to the spouse (married at least 9 months, or the cause of death was accidental), previous spouse, or former spouse, or insurable interest, provided a valid election is made under 3 FAM Section 8187.5, and/or benefits are payable under Section 861 or 862 of the Foreign Service Act, and further provided said spouse, previous spouse, or former spouse has not remarried before age 55. The survivor annuity is increased by cost-of-living adjustments as explained in Section 858 of the Foreign Service Act.

3 FAM 6187.5 Benefits to Surviving Children

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- a. If a Foreign Service Retirement and Disability System (FSRDS) annuitant dies after retirement, or an FSRDS participant dies in service with at least 18 months of creditable civilian service, and is survived by a child (see definition in 3 FAM 6113), such unmarried child is entitled to a survivor annuity computed under Section 806(c) and (d) of the Foreign Service Act. Benefits to the unmarried child terminate at age 18, or, if in school, at the end of the school year in which the child reaches 22, unless disabled and incapable of self support as explained in 3 FAM 6113:
 - (1) If the FSRDS annuitant or participant is survived by a spouse or former spouse who is the natural or adoptive parent of the child, the current monthly rate payable under Section 806 to each eligible child (maximum 3 children); and
 - (2) If the FSRDS annuitant or participant is **not** survived by a spouse or former spouse who is the natural or adoptive parent of the child, the current monthly rate payable under Section 806 to each eligible child (maximum 3 children).
- b. If an FSPS annuitant dies after retirement, or an FSPS participant dies in service with at least 18 months of creditable civilian service, and is survived by a child (see definition in 3 FAM 6113), such unmarried child is entitled to a survivor annuity computed under 5 U.S.C. 8443. Benefits to the unmarried child terminate at age 18, or, if in school, at the end of the school year in which the child reaches 22, unless disabled and incapable of self support as explained in 3 FAM 6113:
 - (1) If the FSPS annuitant or participant is survived by a spouse or former spouse who is the natural or adoptive parent of the child, the current monthly rate payable under 5 U.S.C. 8443 to each eligible child (maximum 3 children) is \$429.00. This annuity is reduced by the total amount of survivor Social Security benefits payable to any surviving child or children of the participant, regardless of whether they qualify for a survivor annuity, divided by the number of children, as explained in 5 U.S.C. 8443; and
 - (2) If the FSPS annuitant or participant is **not** survived by a spouse or former spouse who is the natural or adoptive parent of the child, the current monthly rate payable under 5 U.S.C. 8443 to each eligible child (maximum 3 children) is \$515.00. This annuity is reduced by the total amount of survivor Social Security benefits payable to any surviving child or children of the participant, regardless of whether they qualify for a survivor annuity, divided by the number of children, as explained in 5 U.S.C. 8443.

3 FAM 6187.6 Bar Against Concurrent Payment under

this Act and the Workers' Compensation Plan

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(State Only)

Except as stated herein, survivor annuities (and also the Foreign Service Pension System (FSPS) Basic Employee Death Benefit) and survivors' compensation for work injuries under 5 U.S.C. 8102 are **not** payable concurrently, if both are based on the death of the same employee. A survivor entitled to both must elect which of the two benefits the survivor prefers. Should all eligible survivors of a deceased employee elect to receive the compensation benefit rather than the survivor annuity, their rights to the latter are terminated and, if the lump-sum credit has not been exhausted, a lump-sum payment will become due. The one exception to this rule occurs when a widow or widower is being paid the balance of a scheduled compensation award under 5 U.S.C. 8107 due the deceased employee. If so, the widow or widower may receive the survivor annuity and compensation award concurrently.

3 FAM 6188 LUMP-SUM PAYMENTS

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(State Only)

- a. Lump-sum credit means the compulsory and special contributions to the credit of a participant or former participant in the fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest must not be paid for a fractional part of a month in the total service, or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity):
 - (1) Foreign Service Retirement and Disability System (FSRDS) "Lump-sum credit" is the compulsory and special contributions to a participant's or former participant's credit under FSRDS, plus interest computed from the midpoint of each service period and compounded at 4 percent annually to the date of separation or December 31, 1976, whichever is earlier, and after such date, for a participant who separates from the Service after completing at least 1 year of service (exclusive of military and naval service) and before completing 5 years of such service, at the rate of 3 percent annually to the date of separation, or with regard to service after 10/30/83, at the rate of 3 percent to December 31, 1984, and thereafter at a variable rate (described in Executive Order 12446 dated 10/17/83) to the date of separation. Interest must not be paid for a fractional part of a month in the total service or on compulsory and special contributions from

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

the annuitant for recall service or other service performed after the date of separation which forms the basis for annuity; and

- (2) Foreign Service Pension System (FSPS) "lump-sum credit" means the retirement deductions and deposits under FSPS, computed with interest, at the variable rate described in 3 FAM 6130. No interest is payable for service of 1 year or less, or for the fractional part of a month; see 5 U.S.C. 8401(19).

b. Payment of lump-sum credit to a former participant under FSRDS or FSPS may be made only when the participant:

- (1) Becomes separated from the Foreign Service for at least 31 days;
- (2) Has no eligibility for an annuity within 31 days;
- (3) Has not been reemployed as a participant in FSRDS or FSPS;
- (4) Filed an application for payment with the Office of Retirement (HR/RET); and
- (5) Has notified any spouse or former spouse of the application for payment.

Such lump sum credit described above will be paid to the former participant, subject to any reduction or distribution requirements to a spouse or former spouse described in Section 815 or 861 of the Foreign Service Act.

c. When participant or former participant dies: If all annuity benefits payable under FSRDS and FSPS based on the service of a deceased participant or annuitant terminate before the total annuity equals the lump-sum credit to which the participant is entitled, the difference must be paid as explained below. If a participant or former participant dies and no claim for annuity is payable, the lump-sum credit is paid in the order of precedence stated below. If all Foreign Service annuity rights based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference is paid in the following order of precedence after the establishment of a valid claim:

- (1) To the surviving beneficiary or surviving beneficiaries designated by the participant or annuitant (hereafter, principal) on Form DS-5002, Designation of Beneficiary, before or after retirement in a signed and witnessed statement received by HR/RET before the principal's death;
- (2) To the surviving spouse of the principal;
- (3) To the child or children of such principal (including adopted and natural children, but not stepchildren) and descendants of deceased children by representation;
- (4) To the parents of such principal or their survivors; or
- (5) To the duly appointed executor or administrator of the estate of such principal.

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

Payment under this section must be a bar to recovery by any other person

d. Designation of beneficiary to receive Foreign Service contributions:

- (1) A designation should be made only if the participant wishes to name some other person or persons not mentioned in the prescribed order of precedence above, or wishes to name a mentioned person in a different order or for a different share. Participants should bear in mind that changes in family status without a corresponding change in designation or cancellation of beneficiary may result in a settlement other than that intended;
- (2) A designation of beneficiary is for refund of the lump-sum credit described. A designation of beneficiary does not affect the right of any person who qualifies to receive survivor annuity benefits; and
- (3) For participants who complete DS-5002, Designation of Beneficiary, the following must apply:
 - (a) The designation of beneficiary must be in writing, signed, and witnessed by two persons, and received by the appropriate agency before the death of the participant. No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by these regulations must be recognized. Payment to a designated beneficiary will be made only to one designated by the document witnessed and filed in accordance with these regulations. Payment to the beneficiary so designated must relieve the Department of liability to any other claimant;
 - (b) A witness to a designation of beneficiary is ineligible to receive payment as a beneficiary; and
 - (c) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary, unless the participant is restricted under appropriate State law from doing so. If HR/RET is not notified of the existence of any such obligation before payment is made, payment to the beneficiary designated under these regulations relieves the Department of any further responsibility.

3 FAM 6189 SEQUENCE OF REDUCTIONS/ OVERPAYMENTS/WAIVER OF ANNUITY/EFFECT OF EMPLOYMENT

3 FAM 6189.1 Sequence of Reductions

(CT:PER-684; 09-27-2012)
(State Only)

Reductions must be computed in the following sequence:

- (1) First, the annuity must be reduced for age, if applicable, for a minimum retirement age (MRA) annuity as described in 3 FAM 6183.4;
- (2) Second, the annuity must be further reduced for unpaid deposits, or for actuarial reduction for unpaid deposits for service before 11/1/83 credited in the Foreign Service Retirement and Disability System (FSRDS) annuity, as described in 3 FAM 6130;
- (3) Third, the annuity as so further reduced must be further reduced as required to provide any regular survivor annuity for a spouse or former spouse as described or to provide a survivor annuity for a designated beneficiary/insurable interest as described in 3 FAM 6187;
- (4) Fourth, the annuity as so reduced must be further reduced by any actuarial reduction for unpaid redeposits for FSRDS service ending on or before 9/30/90 (3 FAM 6130), for actuarial reductions for law enforcement service under Public Law 105-382 (3 FAM 6150), for reductions resulting from an election of the alternative form of annuity (3 FAM 6185), and for reductions applicable to certain FSRDS Offset annuitants, based on eligibility for Social Security benefits (3 FAM 6184);
- (5) Fifth, the annuity so reduced must be further reduced by any pension payable to a former spouse under section 814 or 820 (22 CFR 19), or Section 861 or 862 of the Foreign Service Act; and
- (6) Finally, if a court has ordered an apportionment of annuity, this amount must be deducted from the remaining annuity payable to the principal.

3 FAM 6189.2 Overpayments of Annuity

(CT:PER-684; 09-27-2012)
(State Only)

Recovery of overpayments: Recovery of overpayments to an eligible annuitant under the Act may not be waived when, in the judgment of M/RM/CFSC the individual is without fault and recovery would be against equity and good conscience or administratively infeasible (see 22 CFR Part 17 for procedure).

3 FAM 6189.3 Waiver of Annuity

(CT:PER-684; 09-27-2012)
(State Only)

Waiver of annuity: An individual entitled to be paid an annuity may, for personal reasons, decline to accept all or any part of the annuity. However, a principal may not waive the portion of principal's own annuity authorized to be paid to a former spouse. An annuity waiver must be in writing and be sent to the Office of Retirement (HR/RET) in the Department. A waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

3 FAM 6189.4 Cost-of-Living Adjustments

(CT:PER-684; 09-27-2012)
(State Only)

- a. Cost-of-living adjustments (COLA) for benefits under the Foreign Service Retirement and Disability System (FSRDS) are determined in accordance with the provisions of Section 826 of the Foreign Service Act:
 - (1) Under those provisions, the COLA is payable December 1, based on the preceding rise in the Consumer Price Index through the preceding September 30. The first COLA after an annuity begins is prorated (based on a retirement or death in service). It is based on the number of months in which the annuity was payable prior to December 1; and
 - (2) No COLA is payable on an annuity purchased from voluntary contributions.
- b. Cost-of-living adjustments for benefits under the Foreign Service Pension System (FSPS) are determined in accordance with the provisions of Section 858 of the Foreign Service Act:
 - (1) Under those provisions, the COLA is payable December 1, based on the preceding rise in the Consumer Price Index (CPI; see below for exceptions) through the preceding September 30. The first COLA after an annuity begins is prorated (based on a retirement or death in service). It is based on the number of months in which the annuity was payable prior to December 1:
 - (a) If the rise in the CPI is 2.0 percent or less, the FSPS annuitant's COLA is based on the full increase in the CPI.
 - (b) If the rise in the CPI is 2.0 percent to 3.0 percent, the FSPS annuitant's COLA is the actual increase in the FSPS annuitant's COLA, which is 2.0; and
 - (c) If the rise in the CPI is above 3.0 percent, the FSPS annuitant's COLA is the rise in the CPI less 1.0 percent;
 - (2) FSPS annuity benefits with an FSRDS component receive an FSPS COLA on

UNCLASSIFIED (U)

the FSPS component to their annuity as would an FSRDS COLA on the FSRDS component to their annuity, except as explained below:

- (3) COLAs are not payable on FSPS disability annuity benefits during the first year on the annuity roll if the annuity is based on 60 percent of an annuitant's average salary. Subsequent COLAs on FSPS disability annuity benefits are based on FSPS COLAs even though there may be an FSRDS component to the FSPS disability annuity;
- (4) All survivor annuity benefits to children, whether based on FSRDS or FSPS service, are based on the FSRDS COLA rules. The FSPS basic employee death benefits is increased by FSRDS COLA rules;
- (5) No COLA is payable on the FSPS annuity supplement. No COLA is payable on an MRA + 10 annuity (see 3 FAM 6177) until age 62 unless there is an FSRDS component to that annuity, which is increased by FSRDS COLA rules, or unless the special provisions described in 6183.4 apply; and
- (6) FSPS survivor annuity benefits are increased by FSPS COLA rules, even if it is based on an employee's FSPS service that includes an FSRDS component.

3 FAM 6189.5 Effect of Reemployment/Recall/Reappointment to the Foreign Service

(CT:PER-684; 09-27-2012)
(State Only)

- a. **Reemployment:** Section 824 of the Foreign Service Act governs reemployment of Foreign Service Retirement and Disability System (FSRDS) and Foreign Service Pension System (FSPS) annuitants. Those provisions are outlined as follows:
 - (1) **Full-time reemployment:** If an FSRDS/FSPS annuitant is reemployed under a full-time Civil Service, legislative, or judicial branch appointment, or a Presidential appointment, payment of the employee annuity terminates upon reemployment. At the conclusion of said appointment, payment of the annuity resumes, together with intervening cost-of-living adjustments applicable during the period of reemployment;
 - (2) **Part-time, intermittent or temporary appointment:** If an FSRDS/FSPS annuitant is reemployed under a part-time, intermittent (WAE), or time-limited or other temporary appointment (or an appointment described by an employer of the legislative or judicial branch as temporary in nature), payment of the annuity continues subject to the cap on total compensation described in Section 824(b)(2) of the Act. Any such reemployed annuitant may elect continuation of the annuity, subject to the cap described below;
 - (3) **Cap on annuity:** The sum of the salary plus the annuity of an employee

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

cannot exceed in any calendar year the higher of the salary at retirement, unadjusted for inflation, or the full-time salary of the part-time, intermittent or temporary appointment (meaning the highest full-time salary worked if there were multiple appointments or pay adjustments during the year). Income for this purpose includes annuity payments to a former spouse entitled to benefits under Section 814, 820, 861, or 862 of the Foreign Service Act. The annuity payments to the retired employee or former spouse means any payments paid during the year unless those payments were scheduled to be paid in a prior or subsequent year, except annuity paid before the employee was reemployed;

- (4) **Continuation of annuity to a former spouse:** As provided in Section 814(A), payment of annuity to a former spouse must continue during any period of reemployment, recall or reappointment to the Foreign Service. This provision is extended to any former spouse receiving benefits under Section 861, through 22 U.S.C. 4064(d). The salary of such reemployed, recalled, or reappointed FSRDS or FSPS annuitant must be reduced by the amount of such payments and deposited by the employer to the Department of the Treasury to the credit of the Fund;
- (5) **Notification of reemployment:** Any Federal department, agency, or branch of the U.S. Government (including the legislative and judicial branches) which reemploys a FSRDS or FSPS annuitant, must notify the Department of State, Office of Retirement (HR/RET), 2401 E Street, NW, Washington, DC 20522, by sending a copy of Form SF-50, Notification of Personnel Action, and taking other appropriate actions, as directed by HR/RET, including salary reduction described above; and
- (6) **Waiver of reemployment provisions:** Pursuant to delegated authority, the Director General may waive the provisions of Section 824(a) through (d) of the Foreign Service Act, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances. If such waiver is approved, such reemployed annuitant is not considered a Federal employee for retirement purposes.

- b. **Recall:** Upon a recall to the Foreign Service, the FSRDS or FSPS annuity of the former participant so reemployed, must be suspended, and the period of recall service will be credited under FSRDS, FSRDS Offset, or FSPS as appropriate. Upon termination of the recall appointment, the annuity must be resumed together with intervening cost-of-living adjustments under Section 826 or 858 during the recall period. If the recall period lasts more than 1 year, the annuitant may elect a supplemental annuity computed under Section 823 of the Foreign Service Act. If the recall period lasts 5 years, the annuitant may elect a recomputed annuity under the FSRDS or the FSPS. Such recomputation must not enable the participant to reduce an election of survivor benefits made upon first retirement. Any period of reemployment subsequent to the retirement and

UNCLASSIFIED (U)

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

prior to the recall may be counted if creditable under Section 816 or 854. Any FSRDS annuitant who elects FSPS coverage during a period of recall must be treated as having been reemployed under Section 824, rather than 823 of the Foreign Service Act. Any employee recalled under Section 823 who does not qualify for a supplemental annuity or recomputation must receive a refund of retirement contributions.

- c. **Reappointment:** Upon a reappointment to the Foreign Service under Section 308(b) of the Foreign Service Act, the FSRDS, FSRDS Offset, or FSPS annuity of the former participant so reemployed must be suspended, and the period of recall service will be credited under FSRDS, FSRDS Offset, or FSPS as appropriate. Upon termination, the annuity must be recomputed under FSRDS, FSRDS Offset, or FSPS, including any pension to a former spouse. Such recomputation must not enable the participant to reduce an election of survivor benefits made upon first retirement.